

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CHRISTOPHER WHITE,

Plaintiff,

v.

Case No. 2:16-cv-1142

CHIEF JUDGE EDMUND A. SARGUS, JR.

Magistrate Judge Elizabeth P. Deavers

LIEUTENANT NEWKIRK,

Defendant.

OPINION & ORDER

This matter is before the Court for consideration of an Order and Report and Recommendation (ECF No. 3) issued by the Magistrate Judge on December 7, 2016 and for consideration of Plaintiff's Motion to Amend Complaint (ECF No. 6). Plaintiff, a pro se prisoner, brings this action pursuant to 42 U.S.C. § 1983 alleging a violation of his due process rights during a prison disciplinary hearing at which he was found guilty and given a higher security level status, thereby impacting his parole consideration.

In the Order and Report and Recommendation, the Magistrate Judge granted Plaintiff's motion for leave to proceed in forma pauperis and performed an initial screen in accordance with 28 U.S.C. § 1915(e)(2). The Magistrate Judge recommended dismissing Plaintiff's Complaint for failure to state a claim upon which relief can be granted. Specifically, the Magistrate Judge held that Plaintiff's due process rights were not violated because he has no fundamental liberty interest in his parole eligibility or a particular security classification. (ECF No. 3 at 6 (citing *Harbin-Bey v. Rutter*, 420 F.3d 571, 577 (6th Cir. 2005) and *Jackson v. Jamrog*, 411 F.3d 615, 619 (6th Cir. 2005)).)

The Report and Recommendation advised the parties that failure to object within fourteen

(14) days would result in a waiver of review. On December 19, 2016, Defendant requested an extension of time to file objections, which the Magistrate Judge granted and ordered Defendant to file his objections on or before February 6, 2017. The time for filing objections has passed, and no objections have been filed to the Order and Report and Recommendation. However, on December 30, 2016, Plaintiff filed a Motion to Amend Complaint (ECF No. 6) in order to “eliminate the basis for a motion to dismiss.” To the extent that Plaintiff intends the Amended Complaint to serve as his objection to the Report and Recommendation, the Court has reviewed *de novo* any part of the magistrate judge’s disposition that has been properly objected to. Fed. R. Civ. P. 72(b)(3).

The Court has reviewed Plaintiff’s Amended Complaint (ECF No. 9) and finds that it restates the allegations set forth in the original complaint and fails to correct the deficiencies identified by the Magistrate Judge in her Report & Recommendation. The Court therefore **ADOPTS** the Report and Recommendation (ECF No. 3). For the reasons set forth in the Report and Recommendation, plaintiff’s Complaint (ECF No. 1-1) is **DISMISSED** and Plaintiff’s Motion to Amend (ECF No. 6) is **DENIED** on grounds of futility.

IT IS SO ORDERED.

2-21-2017
DATE



EDMUND A. SARGUS, JR.
CHIEF UNITED STATES DISTRICT JUDGE